

Message Text

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PAGE 01 BRASIL 05779 01 OF 02 251825Z
ACTION ARA-14

INFO OCT-01 EB-08 ISO-00 L-03 INR-10 SS-15 /051 W
-----051199 251900Z /43
R 251305Z JUL 78
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC 8384

C O N F I D E N T I A L SECTION 1 OF 2 BRASILIA 5779

STADIS

FOR ARA ASSISTANT SECRETARY VAKY FROM AMBASSADOR SAYRE

E.O. 11652: GDS
TAGS: EWWT, BPRO, BR
SUBJECT: EXIMBANK FREIGHT FINANCING

REF: (A) BRASILIA 5677; (B) BRASILIA 5675:
(C) BRASILIA 5720; (D) STATE 177652; STATE 184039

1. PROBLEM: EXIMBANK AT REQUEST OF MARAD HAS TERMINATED ITS FINANCING OF COST OF FREIGHT ON BRAZILIAN-FLAG VESSELS (1) FOR NEW CREDITS AUTHORIZED AFTER JULY 6 UNDER EXIM'S DIRECT LOAN PROGRAM AND (2) AFTER JULY 31 FOR CREDITS AUTHORIZED UNDER COOPERATIVE FINANCING FACILITY (CFF) PROGRAM. BRAZIL IS PLAYING IT COOL, APPARENTLY HOPING USG WILL REVERSE ITSELF, BUT COULD RETALIATE BY TERMINATING BENEFITS TO AMERICAN SHIPPING COMPANIES UNDER EXISTING ARRANGEMENTS, IF WE DO NOT ACT PROMPTLY. WHERE DISPUTE WOULD GO FROM THERE IS NOT CLEAR.
ACTION REQUESTED: BEFORE ISSUE BECOMES MORE COMPLICATED I WOULD APPRECIATE IF YOU COULD LOOK INTO IT AND SEE IF YOU CAN TURN IT AROUND. OUR LACK OF COMPLETE INFORMATION ON BACKGROUND AND STATE OF PLAY PRECLUDES MAKING ANY MORE PRECISE RECOMMENDATION.

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2. BACKGROUND: BRAZIL AND USG APPROVED SHIPPING POOL IN 1972 IN WHICH SHIPPING COMPANIES OF TWO COUNTRIES DIVIDE DIRECT SHIPMENTS BETWEEN EAST COAST US PORTS AND NAMED BRAZILIAN PORTS. SUBSEQUENT AGREEMENTS REQUIRED US COMPANIES TO SERVICE ALL BRAZILIAN PORTS (NOT JUST LUCRATIVE ONES); GAVE US COMPANIES ACCESS TO BRAZILIAN GOVERNMENT ASSISTED CARGOES AND (BECAUSE OF EXIMBANK

FINANCING OF FREIGHT ON BRAZILIAN BOTTOMS) GAVE US COMPANIES GOB MONETARY BENEFITS.

3. WE ARE NOT CERTAIN OF FACTS AS THEY AFFECT SEA-LAND BECAUSE DEPARTMENT HAS NOT KEPT US WELL INFORMED. ON BASIS OF INFORMATION WE HAVE SEEN IT APPEARS MARAD UNDERTOOK ON BEHALF OF SEA-LAND TO GET CERTAIN BRAZILIAN LAWS CHANGED AND SEA-LAND INTO THE POOL. MARAD SOUGHT TO GET GOB TO MAKE EXCEPTION ON ITS DECISION ON 20, 30 AND 40-FOOT CONTAINERS AND PERMIT SEA-LAND TO USE 35 FOOT CONTAINERS (BRAZIL FOLLOWS ISO STANDARDS ON CONTAINERS).

4. BRAZILIAN LAW IS DESIGNED TO STANDARDIZE INTERNAL USE AND HANDLING OF CONTAINERS INCLUDING HANDLING EQUIPMENT. IT IS SIMILAR TO LAWS IN UNITED STATES WHICH PRESCRIBE TRUCK SIZES AND WEIGHTS. MARAD LETTER OF APRIL 13, 1978, ALSO SIGNED BY STATE'S DIRECTOR, OFFICE OF MARITIME AFFAIRS, APPARENTLY SENT WITHOUT KNOWLEDGE OF OTHER US COMPANIES. IT WARNED GOB OF COURT ACTION BY SEA-LAND UNLESS BRAZIL AGREED TO CHANGE ITS LAWS WHICH EXCLUDED 35-FOOT CONTAINERS. IT WAS ALLEGEDLY CONSIDERED BY BRAZIL AS A THREAT AND ALSO IMPROPER BECAUSE IT WAS ADDRESSED TO A CABINET MINISTER BY LOWER LEVEL USG OFFICIALS.

5. WHEN GOB REFUSED TO AGREE, MARAD ASKED EXIMBANK TO RETALIATE BY WITHDRAWING FINANCING OF CARGOES IN BRAZILIAN CONFIDENTIAL

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BOTTOMS. THIS ACTION WAS ALSO TAKEN ALLEGEDLY WITHOUT INFORMING OR CONSULTING THE OTHER US COMPANIES WHICH COULD BE ADVERSELY AFFECTED BY IT AND HAS DRAWN STRONG PROTEST FROM DELTA INCLUDING REFERENCE TO LOUISIANA CONGRESSIONAL DELEGATION. AS YOU WILL SEE FROM THE RECORD I QUESTIONED THE WISDOM OF THE MOVE AND STILL DO, BUT NEVERTHELESS CARRIED OUT THE INSTRUCTION.

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C O N F I D E N T I A L SECTION 2 OF 2 BRASILIA 5779

STADIS////////////////////////////////////

FOR ARA ASSISTANT SECRETARY VAKEY FROM AMBASSADOR SAYRE

6. SEA-LAND MEANTIME CAME TO TERMS WITH OTHER US COMPANIES AND HAS ENTERED POOL (REF B). ACCORDING TO POOL AGREEMENT IT COVERS ONLY DIRECT SHIPMENT FROM EAST COAST PORTS, I.E., IT DOES NOT PERMIT TRANSSHIPMENT THROUGH PUERTO RICO. SOURCES HERE INSIST THAT SEA-LAND SIGNED AGREEMENT KNOWING THAT, BUT THEY ALSO STATE THAT SEA-LAND WILL WANT TO NEGOTIATE FOR CHANGE ONCE SEA-LAND IS IN POSITION TO PARTICIPATE IN POOL. ALTHOUGH NOT COVERED BY AGREEMENT, NON-SEA-LAND SOURCES HERE INSIST SEA-LAND ACCEPTS THAT IT MUST USE 40-FOOT CONTAINERS AND IS SEEKING WAYS TO COMPLY AND SEA-LAND IS QUOTED IN PRESS HER TO THAT EFFECT (REF A).

7. DEPARTMENT STATES BRAZILIAN POSITION ON TRANSSHIPMENT THROUGH PUERTO RICO IS INFRINGEMENT ON US SOVEREIGNTY BECUASE PUERTO RICO IS PART OF US. THIS POSITION IS PUZZLING TO US BECAUSE USG APPROVED POOL AGREEMENT WHICH REQUIRES DIRECT SHIPMENTS, I.E. INCLUDES PUERTO RICO TRANSSHIPMENTS. THERE ARE ALSO OTHER CONFERENCE WHICH COVER SHIPPING FROM OTHER US PORTS.

7. BRAZIL HAS APPARENTLY WORKED OUT AGREEMENTS WITH OTHER SHIPPING COUNTRIES WHICH CONTAIN SAME RESTRICTION ON TRANSSHIPMENT. THESE AGREEMENTS APPARENTLY PROVIDE FOR EXCEPTIONS IF APPROVED BEFOREHAND IN EACH CASE BY BRAZILIAN MARITIME AUTHORITIES.
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PURPOSE OF PROVISION IS TO PRECLUDE TRANSSHIPMENT TO EVADE SHARING ARRANGEMENT UNDER AGREEMENT.

8. INFORMALLY DEPARTMENT HAS ADVISED US SEA-LAND DOES NOT ACCEPT RESTRICTION ON TRANSSHIPMENT AND PLANS TO PRESS ON 35-FOOT CONTAINERS AS WELL, ALTHOUGH PROBABLY NOT AS HARD AS ON TRANSSHIPMENT. HEART OF SEA-LAND OPERATION IS LARGE TRANSSHIPMENT FACILITY IN PUERTO RICO SO IT NATURALLY WANTS RIGHT TO TRANSSHIPMENT FROM THERE. IF BRAZIL AGREES IT WOULD UPSET AGREEMENTS BRAZIL HAS WITH ALL OTHER COUNTRIES. MOST SEA-LAND SHIPS WERE BUILT FOR 35-FOOT CONTAINERS BUT IT HAS SHIPS WHICH CAN ACCOMODATE 40-FT ONES.

9. SO FAR AS GOB CONCERNED, IT HAS STATED PUBLICLY SEA-LAND ASKED FOR RETALIATORY ACTIONS BY MARAD AND GOB HAS NO PLANS

TO RAISE QUESTION WITH USG. WE ARE TOLD HERE BY INTERESTED PARTY THAT SEA-LAND DID NOT FORMALLY REQUEST ANY ACTION BY MARAD AND SEA-LAND HAS DENIED TO PRESS IT REQUESTED ACTION (REF A). BRAZILIAN FINANCE MINISTER STATED PUBLICLY HE DID NOT KNOW ABOUT EXIMBANK ACTION BUT IT IS OF LITTLE CONCERN TO HIM GIVEN PRESENT STATE OF FINANCIAL MARKETS (REF C). BASICALLY BRAZILIAN POSITION SEEMS TO BE THAT MARAD GOT ITSELF INTO THIS ONE AND IT CAN FIGURE OUT HOW TO GET OUT OF IT. SHIPPING CIRCLES SEEM CONVINCED, HOWEVER, THAT GOB WILL RETALIATE IN SOME MANNER AGAINST US COMPANIES UNLESS EXIMBANK MEASURES ARE WITHDRAWN.

10. COMMENT: IT IS NOT CLEAR TO ME WHY USG HAS UNDERTAKEN SUCH VIGOROUS ACTION ON BEHALF ONE US SHIPPING COMPANY TO DETRIMENT OF OTHER US SHIPPING COMPANIES WITHOUT CONSULTING LATTER. NOR GIVEN USG BALANCE OF PAYMENTS SITUATION AND TRADING DEFICITS IT IS NOT CLEAR WHY USG WOULD RAISE SERIOUS QUESTIONS IN ONE OF OUR PRINCIPLE MARKETS ABOUT OUR DEPENDABILITY AS FINANCIER OF US EXPORTS. AS DEPARTMENT KNOWS, GERMANS, JAPANESE, CONFIDENTIAL

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AND OTHERS ARE PRESSING HARD IN THIS MARKET AND WITH SUCH STIFF COMPETITION IT DOES NOT SERVE USG INTERESTS TO BE DAILY PROTRAYED IN FINANCIAL SECTION OF BRAZILIAN PRESS AND UNDEPENDABLE. WORLD COMPETITION SITUATION HAS CHANGED AND WE CAN NO LONGER ACT LIKE WE CAN CALL ALL THE SHOTS.

11. AT MOMENT WE ARE ON COLLISION COURSE WITH BRAZILIANS ON ISSUES WHICH APPEAR TO BE MOVING TOWARD SOLUTION. IN ANY CASE, SEA-LAND DOES NOT APPEAR TO BE IN A POSITION IMMEDIATELY TO TAKE ADVANTAGE OF POOL AGREEMENT IT HAS ENTERED.

12. I APPRECIATE THAT I MAY NOT HAVE ALL THE FACTS AND THAT THERE MAY BE SOME VALID US INTEREST TO BE SERVED BY RETALIATORY ACTION WE TOOK. BUT ON BASIS OF WHAT I KNOW IT WOULD SEEM BETTER PART OF WISDOM FOR MARAD TO REQUEST EXIMBANK TO RESCIND ACTION ON FREIGHT FINANCING BEFORE WHOLE POOL ARRANGEMENT BEGINS TO UNRAVEL ON JULY 31.
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